
**IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

21-3346 & 21-3347

UNITED STATES OF AMERICA,

Appellee,

v.

EARL MCKEE,

Appellant.

*APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA
HONORABLE JOHN A. JARVEY, U.S. DISTRICT COURT JUDGE*

ADDENDUM

Nate Nieman
Attorney at Law
329 18th St., Rock Island, IL 61201
Telephone: (309) 623-4831
Email: nate@niemanlaw.com
AT0012958

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS TO ADDENDUM

1. Indictment (3:20-cr-00101).....	A1-A2
2. Verdict form (3:20-cr-00101).....	A3
3. Sentencing judgment (3:20-cr-00101).....	A4-A10
4. Notice of appeal (3:20-cr-00101).....	A11
5. Revocation petition (3:15-cr-00087).....	A12-A13
6. First addendum to revocation petition (3:15-cr-00087).....	A14-A15
7. Second addendum to revocation petition (3:15-cr-00087).....	A16-A17
8. Revocation judgment (3:15-cr-00087).....	A18-A20
9. Notice of appeal (3:15-cr-00087).....	A21

OCT 07 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWACLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	Criminal No. 3:20-cr-101
)	
v.)	<u>INDICTMENT</u>
)	
EARL TYRONE MCKEE,)	T. 18 U.S.C. § 922(g)(1)
)	T. 18 U.S.C. § 924(a)(2)
Defendant.)	T. 18 U.S.C. § 924(d)
)	T. 28 U.S.C. § 2461(c)

THE GRAND JURY CHARGES:**COUNT 1**
(Felon in Possession of a Firearm)

On or about August 30, 2020, in the Southern District of Iowa, the defendant, EARL TYRONE MCKEE, in and affecting commerce, knowingly possessed a firearm, namely: a loaded Hi-Point .380 caliber rifle, with serial number Y00380. At the time of the offense, the defendant knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

This is a violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

THE GRAND JURY FINDS:**NOTICE OF FORFEITURE**

That upon conviction for the offense alleged in Count 1 of this Indictment, the defendant, EARL TYRONE MCKEE, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c), all firearms, magazines, and ammunition involved in the commission of said

offense, including, but not limited to, the firearms and ammunition identified in Count 1 of this Indictment.

This is pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

A TRUE BILL.

FOR
FOREPERSON

Marc Krickbaum
United States Attorney

By:



Will R. Ripley
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EARL TYRONE MCKEE,

Defendant.

*
*
*
*
*
*
*
*

Case No. 3:20-cr-101

VERDICT FORM

COUNT ONE: FELON IN POSSESSION OF A FIREARM

We, the jury, find the Defendant, EARL TYRONE MCKEE,

Guilty
not guilty/guilty

of possessing a firearm as a felon, as charged in Count One of the Indictment.

FOREPERSON 0

June 3, 2021
DATE

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

v.

Earl Tyrone McKee

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:20-cr-00101-001

USM Number: 15701-030

Nathaniel A. Nieman

Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☒ was found guilty on count(s) One of the Indictment filed on October 7, 2020.
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(1), 924(a)(2)	Felon in Possession of a Firearm	08/30/2020	One

☐ See additional count(s) on page 2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

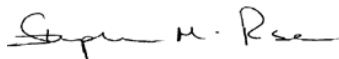
☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 4, 2021

Date of Imposition of Judgment



Signature of Judge

Stephanie M. Rose, U.S. District Judge

Name of Judge

Title of Judge

October 4, 2021

A4 Date

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

120 months as to Count One of the Indictment filed on October 7, 2020, to be served consecutively to the revocation sentence imposed in the U.S. District Court for the Southern District of Iowa Docket Number 3:15-cr-00087-001.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed at FCI Forrest City if commensurate with his security and classification needs.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a m. ☐ p m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before _____ on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

A5

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

Judgment Page: 3 of 7

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :
Three years as to Count One of the Indictment filed on October 7, 2020.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

Judgment Page: 4 of 7

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

Judgment Page: 5 of 7

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

Judgment Page: 6 of 7

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

- ☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$0.00	\$ 0.00	\$ 0.00	\$ 0.00

- ☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS		\$0.00	\$0.00

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-229.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:20-cr-00101-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 9344, Des Moines, IA. 50306-9344.

While on supervised release, you shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
---	--------------	-----------------------------	--

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
a Hi-Point .380 caliber rifle (SN: Y00380) as outlined in the Preliminary Order of Forfeiture filed on June 23, 2021.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

A10

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

NOTICE OF APPEAL

Date: 10/17/21 Case No: 3:20-cr-00101

Case Caption: United States v. Earl McKee

Notice is hereby given that Earl McKee appeals to the:

☒ US Court of Appeals for the Eighth Circuit ☐ IASD District Court Judge

from the Judgment/Order entered in this action on 10/4/21.

Transcript Order Form:

Please prepare a transcript of:

☐ Plea Hearing ☒ Sentencing ☒ Trial

☐ Other Hearing(s) on _____

I am not ordering a transcript because: _____

***Reminder: CJA counsel will need to complete the AUTH 24 form in CJA eVoucher.**

CERTIFICATE OF COMPLIANCE

Appellant hereby certifies that copies of this notice of appeal/transcript order form have been filed/served upon the U.S. District Court, court reporter, and all counsel of record and that satisfactory arrangement for payment of the cost(s) of transcript(s) ordered have been made with the court reporter (Fed Rule App Proc 10(b)).

Attorney/Party Signature: /s/ Nate Nieman Date: 8/6/21

Address: 329 18th St., Rock Island, IL 61201

Phone Number: (309) 623-4831

PROB 12C
(SDIA 05/15)

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF IOWA

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Earl Tyrone McKee

Case Number: 3:15-cr-00087

Name of Sentencing Judicial Officer: Stephanie M. Rose, U.S. District Judge

Date of Original Sentence: October 17, 2016

Original Offense: 18 U.S.C. §§ 922(g)(1), 924(a)(2) – Felon in Possession of Firearm.

Original Sentence: 42 months imprisonment; 36 months supervised release

Date Original Supervision Commenced: November 16, 2018

Date Current Supervision Commenced: November 16, 2018

Prior Modification(s)/Revocation(s): October 10, 2019 – 40 hours unpaid community service, three two-day jail sanctions

PETITIONING THE COURT

- ☒ To issue a warrant.
☐ To issue a summons.

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation

Nature of Noncompliance

1. Possession of a dangerous weapon

On May 12, 2020, the Iowa City Police Department responded to a call of shots fired in the offender's apartment complex. The female victim stated her kitchen window was shot out with a BB gun. She reported that the offender and 5-6 other females came to her apartment earlier in the morning and got into an argument over a laptop. She further advised she provided a BB gun to the offender a day prior so he could create a rap video. No formal state charges have been filed at this time.

On the same day, a detective with the Iowa City Police Department provided the Probation Office with a video the offender posted to a social media page. The video depicts the offender placing what appears to be a firearm-like weapon in his front waistband or pocket. In the video, the offender can be heard stating, "I'm going to protect myself," and "Sit ya'll dumbass down, you not finna rob me, you not finna carjack me, you not finna run in my crib."

2. Failure to report for random urinalysis testing

On May 5, 2020, the Probation Office contacted the offender to advise he was scheduled to begin providing random urinalysis testing at Prelude in Iowa City, Iowa. He was provided with his reporting instructions on the same day. On May 7, 2020, the Probation Office contacted the offender to ensure he received the details about reporting for drug testing. The offender advised he understood the reporting instructions. On May 13, 2020, the offender failed to appear for his random urinalysis test. The Probation Office emailed

him and directed him to report for a makeup urinalysis test by 4:00 p.m. on May 14, 2020.
The offender did not report for a makeup urinalysis test as directed.

U.S. Probation Officer Recommendation:

The term of supervision should be

- ☒ revoked.
- ☐ extended for ... years, for a total term of ... years.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 15, 2020

by: _____

Kristin J. Schrems
U.S. Probation Officer

The United States Attorney's Office:

- ☒ Does not object to the proposed action.
- ☐ Objects but does not request a formal hearing
be set.
- ☐ Objects and will petition the Court requesting
that a formal hearing be set.

Melisa Zaehring

Assistant United States Attorney

Melisa Zaehring

Signature

THE COURT ORDERS:

- ☐ No action.
- ☐ The issuance of a warrant.
- ☐ The issuance of a summons so a hearing can be
held on _____
at _____.

Signature of Judicial Officer

Date

PROB 12C Addendum
(SDIA 05/15)

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF IOWA

Addendum to the Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Earl Tyrone McKee

Case Number: 3:15-cr-00087

Name of Sentencing Judicial Officer: Stephanie M. Rose, U.S. District Judge

Date of Original Sentence: October 17, 2016

Original Offense: 18 U.S.C. §§ 922(g)(1), 924(a)(2) – Felon in Possession of Firearm

Original Sentence: 42 months imprisonment; 36 months supervised release

Date Original Supervision Commenced: November 16, 2018

Date Current Supervision Commenced: November 16, 2018

Prior Modification(s)/Revocation(s): October 10, 2019 – 40 hours unpaid community service, three two-day jail sanctions

PETITIONING THE COURT

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation

Nature of Noncompliance

3. Possession of a firearm

On August 30, 2020, the Iowa City Police Department responded to a call for possible shots fired at a local apartment complex. During the investigation, officers located surveillance footage of the incident that occurred moments before officers arrived on scene. During a confrontation between several people in the courtyard of the apartment complex, a male subject with long dreadlocks was seen running from the confrontation and entering an apartment unit. He is observed running back out of the apartment unit with a black firearm that resembles a rifle. The male subject was observed on camera taking a “firing stance” and pointing the rifle at people in the confrontation. After the group disperses, the subject is seen running back up to the apartment unit and placing the rifle-like firearm back in the apartment unit. The male subject then runs into another apartment unit with an additional subject holding what appears to be a pistol. Officers received a search warrant for both apartment units and located the offender, identified as Earl McKee. The offender was arrested on his U.S. Marshal’s warrant. The investigation is still pending, and no local or federal charges have been filed at this time.

U.S. v. Earl Tyrone McKee (3:15-cr-00087)

Petition for Warrant or Summons - September 2, 2020

U.S. Probation Officer Recommendation:

The term of supervision should be

- ☒ revoked.
- ☐ extended for ... years, for a total term of ... years.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 2, 2020

by: Kristin J. Schrems
Kristin J. Schrems
U.S. Probation Officer

The United States Attorney's Office:

- ☒ Does not object to the proposed action.
- ☐ Objects but does not request a formal hearing be set.
- ☐ Objects and will petition the Court requesting that a formal hearing be set.

Will R. Ripley
Assistant United States Attorney

Will R. Ripley
Signature

A WARRANT FOR THE OFFENDER'S ARREST WAS PREVIOUSLY REQUESTED; THUS, NO ADDITIONAL ORDER IS REQUESTED.

PLEASE FILE FOR USE IN THE OFFENDER'S REVOCATION HEARING.

PROB 12C Addendum
(SDIA 05/15)

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF IOWA

Addendum to the Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Earl Tyrone McKee

Case Number: 3:15-cr-00087

Name of Sentencing Judicial Officer: Stephanie M. Rose, U.S. District Judge

Date of Original Sentence: October 17, 2016

Original Offense: 18 U.S.C. §§ 922(g)(1), 924(a)(2) – Felon in Possession of a Firearm

Original Sentence: 42 months imprisonment; 36 months supervised release

Date Original Supervision Commenced: November 16, 2018

Date Current Supervision Commenced: November 16, 2018

Prior Modification(s)/Revocation(s): October 10, 2019 – 40 hours unpaid community service, three two-day jail sanctions

PETITIONING THE COURT

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation</u>	<u>Nature of Noncompliance</u>
1. Possession of a dangerous weapon	<p>On May 12, 2020, the Iowa City Police Department responded to a call of shots fired in McKee's apartment complex. The female victim stated her kitchen window was shot out with a BB gun. She reported that McKee and 5-6 other females came to her apartment earlier in the morning and got into an argument over a laptop. She further advised she provided a BB gun to McKee a day prior so he could create a rap video. No formal state charges have been filed at this time.</p> <p>On the same day, a detective with the Iowa City Police Department provided the Probation Office with a video that McKee posted to a social media page. The video depicts him placing what appears to be a firearm-like weapon in his front waistband or pocket. In the video, McKee can be heard stating, "I'm going to protect myself," and "Sit ya'll dumbass down, you not finna rob me, you not finna carjack me, you not finna run in my crib."</p>
2. Failure to report for random urinalysis testing	<p>On May 5, 2020, the Probation Office contacted McKee to advise he was scheduled to begin providing random urinalysis testing at Prelude in Iowa City, Iowa. He was provided with his reporting instructions on the same day. On May 7, 2020, the Probation Office contacted McKee to ensure he received the details about reporting for drug testing. He advised he understood the reporting instructions. On May 13, 2020, McKee failed to appear for his random urinalysis test. The Probation Office emailed him and directed him to report for a makeup urinalysis test by 4:00 p.m. on May 14, 2020. McKee did not report for a makeup urinalysis test as directed.</p>

3. New law violation – Felon in Possession of a Firearm

On August 30, 2020, the Iowa City Police Department responded to a call for possible shots fired at a local apartment complex. During the investigation, officers located surveillance footage of the incident that occurred moments before officers arrived on scene. During a confrontation between several people in the courtyard of the apartment complex, a male subject with long dreadlocks was seen running from the confrontation and entering an apartment unit. He is observed running back out of the apartment unit with a black firearm that resembles a rifle. The male subject was observed on camera taking a “firing stance” and pointing the rifle at people in the confrontation. After the group disperses, the subject is seen running back up to the apartment unit and placing the rifle-like firearm back in the apartment unit. The male subject then runs into another apartment unit with an additional subject holding what appears to be a pistol. Officers received a search warrant for both apartment units and located the offender, identified as Earl McKee. The offender was arrested on his U.S. Marshal’s warrant.

On October 7, 2020, a federal grand jury indicted McKee on one count of Felon in Possession of a Firearm. On June 3, 2021, a federal jury found McKee guilty of one count of 18 U.S.C §§922(g)(1), 924(a)(2) – Felon in Possession of a Firearm.

U.S. Probation Officer Recommendation:

The term of supervision should be

- ☒ revoked.
- ☐ extended for ... years, for a total term of ... years.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 29, 2021

by: _____

Kristin J. Schrems
U.S. Probation Officer

The United States Attorney’s Office:

- ☒ Does not object to the proposed action.
- ☐ Objects but does not request a formal hearing be set.
- ☐ Objects and will petition the Court requesting that a formal hearing be set.

Will R. Ripley

Assistant United States Attorney

Will R. Ripley
Signature

A WARRANT FOR THE OFFENDER’S ARREST WAS PREVIOUSLY REQUESTED; THUS, NO ADDITIONAL ORDER IS REQUESTED.

PLEASE FILE FOR USE IN THE OFFENDER’S REVOCATION HEARING.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

v.

Earl Tyrone McKee

Judgment in a Criminal Case

(For Revocation of Probation or Supervised Release)

Case Number: 3:15-cr-00087-001

USM Number: 15701-030

Nathaniel A. Nieman

Defendant's Attorney

THE DEFENDANT:

- ☒ admitted guilt to violation of condition(s) 1, 2, and 3 of the term of supervision.
- ☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1.	Possession of a Dangerous Weapon	5/12/2020
2.	Failure to Report for Random Urinalysis Testing	5/14/2020
3.	New Law Violation - Felon in Possession of a Firearm	10/4/2021

☐ See additional violation(s) on page 2

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

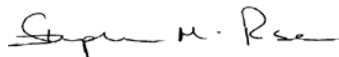
Last Four Digits of Defendant's Soc. Sec. No.: 9507

Defendant's Year of Birth: 1990

City and State of Defendant's Residence:
Iowa City, Iowa

October 4, 2021

Date of Imposition of Judgment



Signature of Judge

Stephanie M. Rose, U.S. District Judge

Name of Judge

Title of Judge

October 4, 2021

AP8

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:15-cr-00087-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months, to be served consecutively to the sentence imposed in the United States District Court for the Southern District of Iowa Docket Number 3:20-cr-00101-001.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed at FCI Forrest City if commensurate with his security and classification needs.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a m. ☐ p m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before _____ on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Earl Tyrone McKee
CASE NUMBER: 3:15-cr-00087-001

Judgment Page: 3 of 3

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

No term of supervised release to follow.

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

NOTICE OF APPEAL

Date: 10/17/21 Case No: 3:15-cr-00087

Case Caption: United States v. Earl McKee

Notice is hereby given that Earl McKee appeals to the:

☒ US Court of Appeals for the Eighth Circuit ☐ IASD District Court Judge

from the Judgment/Order entered in this action on 10/4/21.

Transcript Order Form:

Please prepare a transcript of:

☐ Plea Hearing ☐ Sentencing ☐ Trial

☒ Other Hearing(s) on Revocation Hearing 10/4/21

I am not ordering a transcript because: _____

***Reminder: CJA counsel will need to complete the AUTH 24 form in CJA eVoucher.**

CERTIFICATE OF COMPLIANCE

Appellant hereby certifies that copies of this notice of appeal/transcript order form have been filed/served upon the U.S. District Court, court reporter, and all counsel of record and that satisfactory arrangement for payment of the cost(s) of transcript(s) ordered have been made with the court reporter (Fed Rule App Proc 10(b)).

Attorney/Party Signature: /s/ Nate Nieman Date: 8/6/21

Address: 329 18th St., Rock Island, IL 61201

Phone Number: (309) 623-4831